

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:	: Chapter 11
Orion HealthCorp, Inc.	: Case No. 18-71748 (AST)
Constellation Healthcare Technologies, Inc.	: Case No. 18-71749 (AST)
NEMS Acquisition, LLC	: Case No. 18-71750 (AST)
Northeast Medical Solutions, LLC	: Case No. 18-71751 (AST)
NEMS West Virginia, LLC	: Case No. 18-71752 (AST)
Physicians Practice Plus, LLC	: Case No. 18-71753 (AST)
Physicians Practice Plus Holdings, LLC	: Case No. 18-71754 (AST)
Medical Billing Services, Inc.	: Case No. 18-71755 (AST)
Rand Medical Billing, Inc.	: Case No. 18-71756 (AST)
RMI Physician Services Corporation	: Case No. 18-71757 (AST)
Western Skies Practice Management, Inc.	: Case No. 18-71758 (AST)
Integrated Physician Solutions, Inc.	: Case No. 18-71759 (AST)
NYNM Acquisition, LLC	: Case No. 18-71760 (AST)
Northstar FHA, LLC	: Case No. 18-71761 (AST)
Northstar First Health, LLC	: Case No. 18-71762 (AST)
Vachette Business Services, LTD.	: Case No. 18-71763 (AST)
MDRX Medical Billing, LLC	: Case No. 18-71764 (AST)
Vega Medical Professionals, LLC	: Case No. 18-71765 (AST)
Allegiance Consulting Associates, LLC	: Case No. 18-71766 (AST)
Allegiance Billing & Consulting, LLC	: Case No. 18-71767 (AST)
Phoenix Health, LLC,	: Case No. 18-71789 (AST)
New York Network Management, L.L.C.,	: Case No. 18-74545 (AST)
	:
Debtors.	: (Jointly Administered)

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Orion Healthcorp, Inc., <i>et al.</i> ,	:
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Plaintiffs,	:
v.	:
Parmjit Singh Parmar (a/k/a Paul Parmar), Sotirios	: Adv. Pro. No. 18-08053 (AST)
Zaharis, Ravi Chivukula, Pavan Bakhshi, Naya	:
Constellation Health, LLC, Alpha Cepheus, LLC,	:
Constellation Health Investment, LLC, Constellation	:
Health Group, LLC, Constellation Health, LLC,	:
First United Health, LLC, Taira no Kiyomori LLC,	:
Blue Mountain Healthcare, LLC, CC Capital CHT	:

Holdco LLC, CHT Holdco LLC, PBPP Partners :
LLC, Axis Medical Services, LLC, Vega Advanced :
Care LLC, Pulsar Advance Care LLC, Lexington :
Landmark Services LLC, MYMSMD LLC, PPSR :
Partners, LLC, AAKB Investments Limited, Destra :
Targeted Income Unit Investment Trust, on behalf of :
unitholders, a Delaware Statutory Trust, United :
States of America, Aquila Alpha LLC, 2 River :
Terrace Apartment 12J, LLC, Dioskouroi Kastor :
Polydeuces, LLC, 21B One River Park LLC, Aquila :
Alshain LLC, Ranga Bhoomi LLC, Harmohan :
Parmar (a/k/a Harry Parmar), Kiran Sharma, The :
Red Fronted Macaw Trust, Young Conaway Stargatt :
& Taylor, LLP (in its capacity as Escrow Agent), Blue :
Cross Blue Shield of South Carolina, Honorable :
Trinidad Navarro, Insurance Commissioner of the :
State of Delaware, in his capacity as Receiver, and :
John Does 1 through 100 inclusive, :
Defendants. :
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STIPULATION AND ORDER

THIS STIPULATION AND ORDER (the “**Stipulation**”) is entered into by and among Plaintiffs Orion HealthCorp, Inc. and its affiliated debtors and debtors-in-possession (except New York Network Management, L.L.C.) and as plaintiffs in the above-captioned adversary proceeding (collectively, the “**Debtors**” or “**Plaintiffs**”) and defendants Destra Targeted Income Unit Investment Trust (the “**Destra Trust**”), Constellation Health Group LLC (“**CHGLLC**”), Blue Cross Blue Shield of South Carolina (“**BCBS**”) and the Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware, solely in his capacity as Receiver (the “**Receiver**”) (the Debtors, the Destra Trust, CHGLLC, BCBS and the Receiver each referred to herein as a “**Party**” and collectively as the “**Parties**”), by and through their undersigned counsel.

RECITALS

A. On March 16, 2018 (the “**Petition Date**”), the Debtors commenced their Chapter 11 cases by filing voluntary petitions for relief under Chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101, *et seq.* (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Eastern District of New York (the “**Bankruptcy Court**”).

B. On April 4, 2018, the Debtors commenced the above-captioned adversary proceeding by the filing of a summons and complaint against, among others, (a) Parmjit “Paul” Parmar (“**Parmar**”), (b) certain of his co-conspirators (including Sotirios “Sam” Zaharis (“**Zaharis**”), and Ravi Chivukula (“**Chivukula**”)), (c) the Destra Trust, (d) CHGLLC, (e) the United States of America, and (f) Young Conaway Stargatt & Taylor, LLP, in its capacity as escrow agent (the “**Escrow Agent**”), alleging claims for, *inter alia*, constructive trust, unjust enrichment, fraud, and fraudulent conveyance arising from that certain “go-private” merger transaction (the “**Merger**”), pursuant to which CHT Holdco, LLC acquired the stock of Plaintiff Constellation Healthcare Technologies, Inc. [See Dkt. No. 1].

C. In December 2016, the Destra Trust, on behalf of itself and the Receiver and BCBS, and defendant CHGLLC commenced an action in Delaware Chancery Court styled *Destra Targeted Income Unit Investment Trust, on behalf of Unitholders, et al v. Parmit Singh Parmar (a.k.a. Paul Parmar), et al*, Del. Ch. No. 13006-VCL (the “**Destra Litigation**”) against Parmar and various entities owned or controlled by Parmar.

D. On April 9, 2018, the Debtors filed an *Emergency Ex Parte Motion for a Temporary Restraining Order and a Preliminary Injunction* [Dkt. Nos. 5,6] (the “**Destra TRO Motion**”), seeking entry of a TRO enjoining the Escrow Agent from distributing

approximately \$55 million held in escrow by the Escrow Agent that the Debtors assert belongs to the Debtors and is property of the Debtors' estates (the "**Escrowed Funds**") which is disputed by the Destra Trust, CHGLLC, BCBS and the Receiver. The Escrow Agent is holding the Escrowed Funds pursuant to an order entered in the Destra Litigation.

E. On June 4, 2018, the Debtors filed the *First Amended Adversary Proceeding Complaint* in this adversary proceeding (the "**Amended Complaint**"), adding additional claims and parties, including (a) BCBS, (b) the Receiver, (c) Pavan Bakhshi ("**Bakhshi**"), (d) and certain entities owned and/or controlled by Parmar which, the Debtors allege, (1) received financial benefit as a result of the Merger, and/or (2) were used by Parmar and his co-conspirators to purchase certain properties or otherwise fraudulently secrete assets with funds stolen from the Debtors, in an effort to further hinder, delay and defraud the Debtors and others (the "**Parmar Entities**") [See Dkt. No. 24].¹

F. Simultaneously with the filing of the Amended Complaint, the Debtors filed a *Motion for an Order of Attachment and Injunction and an Order Consolidating Related Adversary Proceedings for Pretrial Purposes* [Dkt. Nos. 26-28] (the "**Attachment Motion**"), seeking (a) an order of attachment and injunctive relief against Parmar, Zaharis, Chivukula, Bakhshi and certain of the Parmar Entities, and (b) an order consolidating, for pretrial purposes, the above-captioned adversary proceeding with a related proceeding.

¹ Specifically, the Parmar Entities are (1) PPSR Partners, LLC, (2) Blue Mountain Healthcare LLC, (3) Taira no Kiyomori LLC, (4) Naya Constellation Health, LLC, (5) Alpha Cepheus, LLC, (6) First United Health, LLC, (7) Constellation Health Investment, LLC, (8) PBPP Partners LLC, (9) Axis Medical Services, LLC, (10) Vega Advanced Care LLC, (11) Pulsar Advance Care LLC, (12) Lexington Landmark Services LLC, (13) MYMSMD LLC, (14) AAKB Investments Limited, (15) Ranga Bhoomi LLC, (16) Aquila Alpha LLC, (17) 2 River Terrace Apartment 12J, LLC, (18) 21B One River Park LLC, (19) Dioskouroi Kastor Polydeuces, (20) The Red Fronted Macaw Trust, and (21) Aquila Alshain LLC.

G. By orders dated and entered July 3, 2018 (as modified by order entered August 10, 2018), the Court granted the Debtors' Attachment Motion [Dkt. Nos. 46, 47, 74].

H. On August 15, 2018, (a) the Destra Trust and CHGLLC filed the *Destra Targeted Income Unit Investment Trust and Constellation Health Group, LLC's Motion Seeking Partial Dismissal of First Amended Adversary Proceeding Complaint* [Dkt. Nos. 86, 87, 88], (b) the Receiver filed the *Receiver's Motion Seeking Partial Dismissal of First Amended Adversary Proceeding Complaint* [Dkt. Nos. 92, 94], and (c) BCBS filed the *Motion to Dismiss the Amended Complaint by Blue Cross Blue Shield* [Dkt. No. 95] (collectively, the "**Motions to Dismiss**").

I. On August 30, 2018, the Destra Trust and CHGLLC filed a *Motion to Compel Mediation* [ECF Nos. 118, 199] (the "**Mediation Motion**") and on September 7, 2018, the Debtors filed an objection to the Mediation Motion. A hearing on the Mediation Motion was held on September 13, 2018, at the conclusion of which, the Court took the Mediation Motion under advisement.

J. On September 24, 2018, the Debtors filed an Omnibus Memorandum of Law, and related pleadings, in opposition to the three Motions to Dismiss. On October 3, 2018, the Destra Trust and CHGLLC, BCBS and the Receiver each filed Rely Memorandum of Law in further support of their respective Motions to Dismiss.

K. A hearing on the Destra TRO Motion and the Motions to Dismiss was held on October 17, 2018. At the conclusion of the hearing: (a) the Court marked each of the Motions to Dismiss submitted, (b) the Parties agreed to enter into a terminable stipulation providing that the Destra Trust, CHGLLC, BCBS and the Receiver will not seek relief with respect to, and will take no steps to seek distribution of, the Escrowed Funds so that the

Destra TRO Motion need not be submitted to the Court at this time, and (c) the Court granted the Mediation Motion and directed that the parties proceed to mediation.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, as follows:

1. The recitals set forth above are incorporated herein by reference.
2. Prior to termination of this Stipulation pursuant to paragraph 4 below, the

Parties agree as follows:

- (i) the Destra Trust, CHGLLC, BCBS and the Receiver will not seek relief with respect to, and will take no steps to seek distribution of the Escrowed Funds in the Destra Litigation or any other proceeding; and
- (ii) discovery between and among the Parties shall be, and hereby is, stayed.

3. This Stipulation may be terminated by any Party, without further order of the Court, upon twenty (20) days' advance written notice to all other Parties. Nothing contained herein shall preclude the Debtors from seeking a hearing on shortened notice on the Destra TRO Motion in event this Stipulation is terminated by any Party.

4. The Parties agree that all the arguments made in the Motions to Dismiss are preserved and also agree that by entering into this stipulation, the Destra Trust, CHGLLC, BCBS and the Receiver are not consenting to (a) the Bankruptcy Court's jurisdiction to adjudicate this adversary proceeding and/or any issues or claims raised herein, (b) the Debtors' Destra TRO Motion or to any temporary restraining order and/or any preliminary or permanent injunction, or (c) any turnover order.

STIPULATED AND AGREED:

Dated: November 13, 2018

<p>By: <u>/s/ Mark T. Power</u></p> <p>Mark T. Power John P. Amato Joseph Orbach Annie P. Kubic HAHN & HESSEN LLP 488 Madison Avenue New York, New York 10022 mpower@hahnhessen.com jamato@hahnhessen.com jorbach@hahnhessen.com akubic@hahnhessen.com</p> <p><i>Special Counsel and Conflicts Counsel to Plaintiffs</i></p> <p>By: <u>/s/ Jerome A. Miranowski</u></p> <p>Walter H. Curchack Vadim J. Rubinstein LOEB & LOEB LLP 345 Park Avenue New York, New York 10154 wcurchack@loeb.com vrubinstein@loeb.com</p> <p>Jerome A. Miranowski FAEGRE BAKER DANIELS LLP 90 S. 7th Street, 2200 Wells Fargo Center Minneapolis, MN 55402 Jerome.miranowski@faegrebd.com</p> <p><i>Counsel for Destra Targeted Income Unit Investment Trust and Constellation Health Group, LLC</i></p>	<p>By: <u>/s/ Alfredo R. Pérez</u></p> <p>Alfredo R. Pérez Patrick W. Thompson WEIL, GOTSHAL & MANGES LLP 700 Louisiana, Suite 700 Houston, Texas 77002 Alfredo.perez@weil.com patrick.thompson@weil.com</p> <p>Jacqueline Marcus WEIL, GOTSHAL & MANGES LLP 767 Fifth Avenue New York, New York 10153 Jacqueline.marcus@weil.com</p> <p>James J. Black, III Jeffrey B. Miceli Mark W. Drasnin BLACK & GERNGROSS, P.C. 1617 John F. Kennedy Boulevard-Suite 1575 Philadelphia, PA 19103 jblack@blackgern.com jmiceli@blackgern.com mdrasnin@blackgern.com</p> <p><i>Counsel to the Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware in his capacity as Receiver of Freestone Insurance Company in Liquidation</i></p> <p>By: <u>/s/ Todd G. Cosenza</u></p> <p>Todd G. Cosenza WILLKIE FARR & GALLAGHER 787 Seventh Avenue New York, New York 10019 tcosenza@willkie.com</p> <p><i>Counsel to Blue Cross and Blue Shield</i></p>
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SO ORDERED:

Dated: November 16, 2018
Central Islip, New York




Alan S. Trust
United States Bankruptcy Judge